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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,876	01/31/2001	Robert J. Winchester	57005-A-PCT-US/JPW/AJM/AP	7963

7590 05/23/2005

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EXAMINER	
SCHWADRON, RONALD B	

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/773,876	**Applicant(s)** WINCHESTER ET AL.	
	Examiner Ron Schwadron, Ph.D.	**Art Unit** 1644	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See enclosed Office action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). ____
13. ☒ Other: _____. The response filed 2/24/2005 has been entered.

RONALD B. SCHWADRON
PRIMARY EXAMINER
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1. Claims 18 and 19 are under consideration.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 18 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over D'Apuzzo et al. in view of Gerard et al. (US Patent 6,537,764) for the reasons elaborated in the previous Office Action. Applicants arguments have been considered and deemed not persuasive.

D'Apuzzo et al. teach that CXCR4 is the receptor for SDF-1 (see abstract). D'Apuzzo et al. teach that SDF-1 stimulates a B cell response on human B cell lines via nteraction with CXCR4 (see Figure 4). D'Apuzzo et al. teach that the addition of anti-CXCR4 antibody blocks SDF-1/CXCR4 mediated B cell responses (see Figure 4 and 1789, first column). Thus D'Apuzzo et al. demonstrate that antiCXCR4 antibody inhibits activation of CXCR4 receptor by SDF-1, wherein the B cell response requires CXCR4 activation (eg. SDF-1/CXCR4 interaction) to take place. D'Apuzzo et al. do not teach use of said method with a non-peptidyl agent. Gerard et al. disclose nonpeptide inhibitors of chemokine function are well known in the art as is the desirability to identify such compounds (see columns 22-24, wherein column 23, second paragraph discloses

nucleic acid or organic compounds). The art recognized that chemokines are involved in a variety of leukocyte functions related to inflammation(see column 1, third paragraph). D'Apuzzo et al. disclose that the SDF-1/CXCR4 interaction is involved in leucocyte migration (see page 1792, first column). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have created the claimed invention because D'Appuzzo et al. teach the claimed method except for use of the assay to screen non-peptidyl agents whilst Gerard et al. disclose nonpeptide inhibitors of chèmokine function are well known in the art as is the desirability to identify such compounds. One of ordinary skill in the art would have been motivated to do the aforementioned in order to identify inhibitors of the SDF-1/CXCR4 interaction that would inhibit leukocyte migration wherein said migration is pertinent to inflammation and inflammation is pertinent to a wide variety of different diseases (autoimmune diseases, etc.).

Regarding applicants comments, D'Appuzzo et al. teach the claimed method except for use of the assay to screen non-peptidyl agents whilst Gerard et al. disclose nonpeptide inhibitors of chemokine function are well known in the art as is the desirability to identify such compounds. D'Apuzzo et al. disclose that the SDF-1/CXCR4 interaction is involved in leucocyte migration (see page 1792, first column). One of ordinary skill in the art would have been motivated to do the aforementioned in order to identify inhibitors of the SDF-1/CXCR4 interaction that would inhibit leukocyte migration wherein said migration is pertinent to inflammation and inflammation is pertinent to a wide variety of different diseases (autoimmune diseases, etc.). In addition, Gerard et al. disclose that chemokines are involved in the inflammatory response (see column 1, third paragraph) and the desirability of identifying chemokine inhibitors which can be further assessed for potential therapeutic use (see column 3, penultimate paragraph). While Gerard et al. largely addresses CCR3, in view of the fact that both CXCR4 and CCR3 are inflammatory chemokines, it would have been desireable to screen for inhibitors of CXCR4 for largely the same reasons that it was desireable to screen for inhibitors of CCR3 (eg. because they are both involved in inflammation and inflammation is pertinent to a variety of disease states).

4. No claim is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ron Schwadron, Ph.D. whose telephone number is 571 272-0851. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached on 571 272 0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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